

## SUMMARY ANALYSIS OF AMENDED BILL

Author: Washington Analyst: Jeani Brent Bill Number: AB 2205

Related Bills: See Prior Analysis Telephone: 845-3410 Amended Date: 03/31/98

Attorney: Doug Bramhall

Sponsor:

**SUBJECT:** Compton Economic Development and Job Creation Program

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced February 19, 1998.

FURTHER AMENDMENTS NECESSARY.

BOARD POSITION CHANGED TO Neutral, If Amended.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 19, 1998, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide that most tax incentives provided to the existing Los Angeles Revitalization Zone under the Revenue and Taxation Code would apply to taxpayers operating businesses within the City of Compton.

### SUMMARY OF AMENDMENT

The March 31, 1998, amendments made the following technical changes:

1. Replaced the net operating loss provisions in both the Personal Income Tax Law and Bank and Corporation Tax Law provisions with the current law provisions as enacted by SB 519 (Stats. 1998, Ch. 7).
2. Resolved one of the technical considerations addressed in the department's analysis of the bill as introduced by removing language that would have allowed the credit to be carried over after its repeal. This language was unnecessary since existing state law provides this general rule.
3. Insert commas where needed and change the word "which" to "that."

Except for one technical consideration and the Board position, the remainder of the department's analysis still applies. The following implementation and technical considerations still apply and are included below for the reader's convenience.

DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_ STATE MANDATE

\_\_\_ GOVERNOR'S APPOINTMENT

Board Position:

\_\_\_ S      \_\_\_ O  
\_\_\_ SA    \_\_\_ OUA  
\_\_\_ N     \_\_\_ NP  
\_X\_ NA    \_\_\_ NAR  
\_\_\_\_\_ PENDING

Agency Secretary Position:

\_\_\_ S      \_\_\_ O  
\_\_\_ SA    \_\_\_ OUA  
\_\_\_ N     \_\_\_ NP  
\_\_\_ NA    \_\_\_ NAR  
DEFER TO \_\_\_\_\_

**GOVERNOR'S OFFICE USE**

Position Approved      \_\_\_  
Position Disapproved    \_\_\_  
Position Noted            \_\_\_

Department/Legislative Director      Date  
**Johnnie Lou Rosas**                      **4/8/98**

Agency Secretary                      Date

By:                      Date:

### Implementation Considerations

The hiring credit defines "resident" by reference to Section 7101 of the Government Code. Section 7101 of the Government Code is contained in the LARZ chapter, which will be repealed by its own provisions on December 1, 1998. Thus, after that date, the reference no longer would be applicable. Also, the definition of "resident" contained in Section 7101 requires that the individual reside in the LARZ, which will no longer exist after December 1, 1998.

### Technical Considerations

This bill raises the following technical considerations:

1. The bill would require that the hiring credit be reduced by the amount of certain other credits allowed. This provision, however, references the expired jobs tax credit and the repealed enterprise zone and program area hiring credits, which were replaced by the new enterprise zone hiring credit. In addition, this section would not require the hiring credit provided under this bill to be reduced by any allowed hiring credit provided under the new MEA or TTA provisions.
2. Although the provision requiring taxpayers to make an election was removed from the LARZ sales or use tax credit and replaced with a provision that only one credit is allowable for the qualified property, this bill would require the taxpayer to make an election, on the original return, if the expenditure qualifies the taxpayer for more than one credit. The change was made to assure that taxpayers are able to take advantage of the available credit. To address the same problem, this bill should be amended to replace the election language with a requirement that only one credit is allowable for the qualified property. See amendments 2 and 5.
3. The NOL provisions contain incorrect references. For example, the Personal Income Tax Law (PITL) refers to "bank or corporation" and "income year," and the Bank and Corporation Tax Law (B&CTL) refers to "person or entity" and "taxable year." Further, the PITL provisions reference the B&CTL general NOL and the B&CTL provisions reference the PITL general NOL. In effect, it appears that the PITL and B&CTL language were inadvertently swapped. Amendments 3 and 6 would make the appropriate changes. Please note that the term "bank" is unnecessary as the existing law definition of "corporation" includes "bank."
4. The NOL provisions also appear to be missing the provisions that would allow the NOL to be carried forward. Amendments 3 and 6 would include this necessary language.
5. The definition of "qualified property" under the sales and use tax credit is for purchases between 1998 and 2000 for the PITL, but between 1998 and 2004 for the B&CTL. Eliminating four years for personal income taxpayers would appear to be unintentional, since the PITL credit itself is allowed until 2004. Amendment 1 would change the 2000 date to 2004.

6. The expiration date for the NOL provision is January 1, 2004. This date should be extended until December 1, 2004, to include all the 2004 calendar months for fiscal year filers. Amendments 4 and 7 would replace "January" with "December."

BOARD POSITION

Neutral, if amended.

At its March 26, 1998, meeting, the Franchise Tax Board voted 2-0 to have a neutral position on this bill if it is amended to resolve the implementation and technical considerations addressed above, with Robin J. Dezember, on behalf of Member Craig L. Brown, abstaining.

Analyst            Jeani Brent  
Telephone #       845-3410  
Attorney           Doug Bramhall

FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 2205  
As Amended March 31, 1998

AMENDMENT 1

On page 3, line 32, strikeout "2000" and insert:

2004

AMENDMENT 2

On page 4, strikeout lines 1 through 9, and insert:

(c) If the taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

AMENDMENT 3

On page 27, modify lines 38 and 39, on page 28, modify lines 1 through 40, and on page 29, modify lines 1 through 19, as follows:

e) A ~~bank or corporation~~ person or entity engaged in the conduct of a trade or business within the City of Compton.

(1) ~~(A)~~ A net operating loss shall not be a net operating loss carryback for any income taxable year and, ~~except as provided in subparagraph (B),~~ a net operating loss for any income taxable year beginning on or after January 1, 1998, and before January 1, 2004, shall be a net operating loss carryover to each following taxable year that ends before January 1, 2004, or to each of the 15 ~~income taxable~~ years following the income taxable year of loss.

~~(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.~~

(2) For the purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section ~~24416.1~~ 17276.1, attributable to the taxpayer's business activities within the City of Compton before January 1, 2004. The attributable loss shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11, modified as follows:

(i) The loss shall be apportioned to the City of Compton by multiplying the loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The City of Compton" shall be substituted for this state.

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to the City of Compton determined in accordance with the provisions of paragraph (3).

(3) Attributable income shall be that portion of the taxpayer's California source business income which is apportioned to the City of Compton. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with the provisions of Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the City of Compton in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified as follows:

(A) Business income shall be apportioned to the City of Compton by multiplying total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the City of Compton during the income taxable year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income taxable year.

(C) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the City of Compton during the income taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income taxable year.

#### AMENDMENT 4

On page 29, line 21, strikeout "January" and insert:

December

#### AMENDMENT 5

On page 39, strikeout lines 27 through 35, and insert:

(c) If the taxpayer is allowed a credit for qualified property pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to that qualified property.

#### AMENDMENT 6

On page 54, modify lines 37 through 40, on page 55, modify lines 1 through 40, and on page 56, modify lines 1 through 9, as follows:

(e) A ~~person or entity~~ corporation engaged in the conduct of a trade or business within the City of Compton.

(1)(A) A net operating loss shall not be a net operating loss carryback for any ~~taxable~~ income year, and, except as provided in subparagraph (B), a net operating loss for any ~~taxable~~ income year beginning on or after January 1, 1998, and before January 1, 2004, shall be a net operating loss carryover to each following income year that ends before January 1, 2004. or to each of the 15 ~~taxable~~ income years following the ~~taxable~~ income year of loss.

(B) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any income year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the income year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(2) For the purposes of this subdivision:

(A) "Net operating loss" means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section ~~17276.1~~ 24416.1, attributable to the taxpayer's business activities within the City of Compton before January 1, 2004. The attributable loss shall be determined in accordance with the provisions of Chapter 17 of Part 11 (commencing with Section 25101) ~~of Part 11~~, modified as follows:

(i) Loss shall be apportioned to the City of Compton by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) "The City of Compton" shall be substituted for "this state."

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to the City of Compton determined in accordance with the provisions of paragraph (3).

(3) Attributable income shall be that portion of the taxpayer's California source business income which is apportioned to the City of Compton. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with the provisions of Chapter 17 of Part 11 (commencing with Section 25101) ~~of Part 11~~. That business income shall be further apportioned to the City of Compton in accordance with the provisions of Article 2 (commencing with Section 25120) of Chapter 17 ~~of Part 11~~, modified as follows:

(A) Business income shall be apportioned to the City of Compton by multiplying total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(B) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the City of Compton during the ~~taxable~~ income year and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the ~~taxable~~ income year.

(C) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the City of Compton during the ~~taxable~~ income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the ~~taxable~~ income year.

#### AMENDMENT 7

On page 56, line 11, strikeout "January" and insert:

December